

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Joint Application of Louisville Gas and Electric)
Company and Kentucky Utilities Company for)
Review, Modification, and Continuation of)
Existing, and Addition of New, Demand-Side)
Management and Energy Efficiency Programs)

Case No. 2014-00003

DIRECT TESTIMONY AND EXHIBIT OF KENNETH E. BAKER

ON BEHALF OF

WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

Dated: April 2014

1 **Q. Please state your name and business address.**

2 A. My name is Kenneth E. Baker. My business address is 2001 SE 10th Street, Bentonville,
3 AR 72716-0550.

4 **Q. By whom are you employed and what is your position?**

5 A. I am employed by Wal-Mart Stores, Inc. as Senior Manager of Sustainable Regulation.

6 **Q. Please describe your education and professional experience.**

7 A. In 1985, I received my B.S. degree in Health Science from College of St. Frances and
8 later attended law school at the University of Arkansas at Little Rock School of Law,
9 graduating in 1992 with a J.D. degree. I then practiced law at the Center for Arkansas
10 Legal Services from 1992 to 1999 prior to joining Walmart. Early in my career at
11 Walmart, I held the position of Manager of Real Estate where I helped locate sites for
12 distribution centers. My duties in this position included locating sites and negotiating
13 with communities to build distribution centers. In 2006, I transferred to the Energy
14 Department and am currently the Senior Manager for Sustainable Regulation and
15 Legislation. My current duties include monitoring and participation in utility commission
16 cases and monitoring legislation that primarily deals with policy matters that could
17 potentially impact Walmart business. I have also been involved in the negotiation,
18 drafting, and execution of renewable energy and energy efficiency contracts.

19 **Q. On whose behalf are you testifying?**

20 A. I am testifying on behalf of Wal-Mart Stores East, LP and Sam's East, Inc. (collectively
21 "Walmart").

22 **Q. Was this testimony prepared by you or under your direction?**

23 A. Yes.

1 **Q. Have you previously testified before the Public Service Commission of Kentucky**
2 **("the Commission")?**

3 A. No.

4 **Q. Have you previously submitted testimony before other state regulatory**
5 **commissions?**

6 A. I have submitted testimony before the Commissions in Missouri, North Carolina, New
7 Mexico, Massachusetts, Arizona, Georgia, Indiana, and South Carolina. Additionally, I
8 have submitted testimony before legislative committees in Texas and Pennsylvania. My
9 testimony has included topics concerning demand response, demand side management
10 measures, and renewable energy issues. *See Exhibit KEB-1.*

11 **Q. What is the purpose of your testimony?**

12 A. The purpose of my testimony is to address issues related to commercial customer
13 participation in demand-side management and energy efficiency programs proposed by
14 Kentucky Utilities Company and Louisville Gas and Electric Company ("KU", "LG&E",
15 and collectively "the Companies").

16 **Q. What is your recommendation to the Commission?**

17 A. The Commission should allow any non-residential customer who has electric usage
18 above a benchmark level for all of its sites aggregated under one of the Companies to
19 elect to not participate in that Company's demand-side management program nor be
20 assessed related charges. Walmart proposes a benchmark level of 15 million kWh per
21 year.

1 **Q. Please describe Walmart's operations in Kentucky.**

2 A. Walmart operates 100 retail units and employs 28,454 associates in Kentucky. In fiscal
3 year ending 2013, Walmart purchased \$1.5 billion worth of goods and services from
4 Kentucky-based suppliers, supporting 32,386 supplier jobs.¹ Walmart has approximately
5 50 facilities serviced by the Companies, primarily on the Time-of-Day secondary and
6 primary rate schedules.

7 **Q. Has Walmart established itself as a leader in demand-side management ("DSM")
8 and energy efficiency ("EE")?**

9 A. Yes. Walmart has made an operational and financial commitment to environmental
10 stewardship in many aspects of our business. We made the following commitments in
11 2005:

- 12 1. To be supplied 100% renewable energy;
- 13 2. To create zero waste; and
- 14 3. To sell products that sustain people and the environment.

15 Additionally, in 2013, Walmart made two more commitments:

- 16 1. Scale renewable energy through driving the annual production or procurement of
17 seven billion kWh of renewable energy across Walmart's global footprint by
18 December 31, 2020 – an increase of over 600 percent compared to 2010; and
- 19 2. Accelerate energy efficiency by reducing the kWh/sqft energy intensity required
20 to power our buildings around the world by 20 percent versus 2010.

¹ <http://corporate.walmart.com/our-story/locations/united-states#/united-states/kentucky>

1 **Q. Can you provide specific examples of Walmart's deployment of demand-side**
2 **management and energy efficiency technology?**

3 A. Walmart has implemented a number of energy saving technologies, including:

- 4 1. Sub-metering systems in approximately 1,650 facilities in the United States and
5 375 in the United Kingdom;
- 6 2. Daylight harvesting systems that monitor and adjust lighting intensity while
7 automatically adjusting given the amount of light coming in from the skylights;
- 8 3. White membrane roofs are placed on the roofs of facilities in certain parts of the
9 country in order to lower cooling load;
- 10 4. Heat reclamation from our refrigeration systems that is capable of meeting up to
11 70 percent of that stores hot water needs;
- 12 5. Highly efficient HVAC systems;
- 13 6. LED lighting; and
- 14 7. Active dehumidification that enables stores to operate at higher temperatures and
15 use less electricity.

16 Additionally, all of Walmart's United States stores, including those in the Commonwealth
17 of Kentucky, are centrally monitored to control the stores temperature, lighting, and
18 refrigeration units. This energy management system, in combination with select
19 advanced metering systems, allows Walmart to efficiently implement demand response
20 commands. As a result, Walmart currently participates in approximately twelve utility or
21 ISO/RTO demand response programs nationwide.

1 **Q. What is your understanding of the Companies' participation election for industrial**
2 **customers?**

3 A. Industrial customers simply have to elect not to participate in the DSM program and will
4 not be assessed a charge pursuant to the Companies' programs. All non-residential
5 customers who choose to be considered industrial for purposes of this election must fall
6 under sections 21, 22, 31, 32, and 33 of the North American Industry Classification
7 System ("NAICS"). *See* Kentucky Utilities Company, P.S.C. No. 16, First Revision of
8 Original Sheet No. 86, and Louisville Gas and Electric Company, P.S.C. No. 9, First
9 Revision of Original Sheet No. 86.

10 **Q. Does Walmart qualify under any of the preselected NAICS sections discussed**
11 **above?**

12 A. No.

13 **Q. Do you believe the Companies' use of NAICS is an appropriate way to decide who**
14 **can qualify to elect to not participate in the Companies' demand-side management**
15 **and energy efficiency programs?**

16 A. No. Use of a set of numbers that classify businesses into certain categories and then
17 using those categories to decide what rights are or are not available to customers whom
18 are similarly situated is arbitrary at best and certainly unfair to the businesses that have
19 similar or larger loads than some or most industrial customers.

20 **Q. Please explain.**

21 A. As stated above, using only select NAICS codes is arbitrary. Walmart, in terms of its
22 collective energy usage at multiple facilities in the Companies' service areas, is similar to
23 or larger than many industrial customers, but Walmart is not allowed to opt out under the

1 current criteria. Additionally, the method used by the Companies is unreasonable and
2 discriminatory to the extent it excludes businesses like Walmart who proactively invest in
3 and perform their own energy efficiency measures as described above.

4 **Q. Why would Walmart not elect to not participate in the Companies' demand-side**
5 **management and energy efficiency programs?**

6 A. Walmart, like other large commercial customers, best understands its unique business
7 operations, and we are able to create programs tailored to maximize the impact of the
8 demand-side management and energy efficiency measures installed at our facilities.
9 Additionally, due to the size and scope of the measures we can implement, we can
10 potentially benefit in the competitive market place for energy efficiency goods and
11 services, as energy service companies compete to provide the most innovative and cost
12 effective products to those customers on a regional and national basis. Also, the
13 individual customer assumes all of the risk of the investment, as opposed to having that
14 risk passed onto other ratepayers. Thus, the customer has every incentive to ensure that
15 the implemented measures are cost effective, and as a result, both the individual large
16 customer as well as the Companies' other customers benefit.

17 **Q. How do demand-side management and energy efficiency measures implemented by**
18 **a proactive customer yield network benefits for the Companies' other customers?**

19 A. A customer, whether commercial or industrial, that implements DSM and EE measures
20 on its own yields network benefits for all of the utility's other customers. These network
21 benefits include reduced overall energy cost that result from the reduced load and
22 demand of the customers system. An additional network benefit is the increased system
23 reliability that results in reducing system loss from the commercial customers' reduced

1 energy demand. Other utility customers enjoy all of the network benefits without having
2 to fund such measures through their rates or additional recovery riders. Large customers
3 who have undertaken their own conservation and energy efficiency programs provide
4 these benefits to all other customers at no cost to those customers.

5 **Q. What requirements does Walmart recommend to qualify to elect to not participate**
6 **in the Companies' programs?**

7 A. The Commission should allow any non-residential customer who has electric usage
8 above a benchmark level for all of its sites aggregated under one of the Companies to
9 elect to not participate in that Company's demand-side management program. For
10 example, a non-residential customer with aggregated usage above the benchmark for all
11 of its sites under KU could elect to not participate in KU's demand-side management
12 program. Similarly, a non-residential customer with aggregated usage above the
13 benchmark for all of its sites under LG&E could elect to not participate in LG&E's
14 demand-side management program. However, Walmart does not propose that usage
15 above the benchmark under KU qualify that customer to elect under LG&E, and vice
16 versa.

17 **Q. What benchmark level does Walmart recommend?**

18 A. Walmart recommends a benchmark level of 15 million kWh per year aggregated across
19 all sites instead of discriminatory NAICS codes.

20 **Q. Is the benchmark level of 15 million kWh per year used in any other jurisdiction?**

21 A. Yes. Oklahoma Gas & Electric and Public Service Company of Oklahoma use 15
22 million kWh per year aggregated across all sites as their benchmark level for a customer

1 to elect to not participate in their demand-side management programs. *See* OAC 165:35-
2 41-3.

3 **Q. Does this conclude your Direct Testimony?**

4 A. Yes.

5

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EXHIBIT OF KENNETH E. BAKER
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KEB EXHIBIT 1

New Mexico – Renewable Portfolio Procurement Plan – Docket No. 10-00199-UT; 10-00373-UT

North Carolina – Distributed Generation & EE- Smart Grid – Docket No. E-7 Sub 856; E-100 Sub 123

South Carolina – Smart Grid – Docket No. 2005-385-E

South Carolina – SCE&G DSM/EE – Docket No. 2013-208-E

South Carolina – Duke Energy Carolinas DSM/EE – Docket No. 2013-298-E

Missouri – DSM – Cause No. EO-2012-009

Massachusetts – Forward Capacity Market – Docket No. D.P.U. 08-8

Indiana – Energy Efficiency Self Direct – Cause No. 43580

Arizona – Renewable Energy Standard – Docket Nos. E-01345A-10-0394; E-0134A-12-0290; E-01933A-12-0296; E-04204A-12-0297

Georgia – IRP – Docket Nos. 36498; 36499

CERTIFICATE OF SERVICE

I hereby certify that Walmart's April 14, 2014, electronic filing is a true and accurate copy of the Direct Testimony of Kenneth E. Baker to be filed in paper medium; and that on April 14, 2014, the electronic filing has been transmitted to the Commission, and that an original and one copy of the filing will be delivered to the Commission, that no participants have been excused from electronic filing at this time, and electronic mail notification of the electronic filing is provided to the following:

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Dated: April 14, 2014